

## SENATE BILL NO. 406

INTRODUCED BY SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SURCHARGE FOR FILING A PETITION FOR DISSOLUTION OF MARRIAGE BY \$10 AND ALLOCATING THE INCREASE TO FUND CIVIL LEGAL ASSISTANCE FOR INDIGENT VICTIMS OF DOMESTIC VIOLENCE; ~~PROVIDING A TAX CREDIT FOR ATTORNEYS WHO PROVIDE PRO BONO LEGAL SERVICE TO INDIGENTS;~~ AND AMENDING SECTIONS 3-2-714 AND 25-1-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 3-2-714, MCA, is amended to read:

**"3-2-714. Civil legal assistance for indigent victims of domestic violence account.** (1) There is a civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There must be paid into this account the filing fees paid under 25-1-201(3)(a) and ~~(6)~~ (5). The money in the account must be used solely for the purpose of providing legal representation for indigent victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law cases. Money in the account may not be used for class action lawsuits.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily render or finance legal services to indigent persons in civil matters in domestic violence cases to receive or administer the distribution of the funds."

**Section 2.** Section 25-1-201, MCA, is amended to read:

**"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, ~~\$160~~ \$170; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, \$30;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, \$30;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75.

(2) Except as provided in subsections (3), ~~and (5), through (7) and (6)~~, fees collected by the clerk of district court must:

~~—— (a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~

~~—— (b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator.~~

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, ~~\$9~~ \$19 must be deposited in the civil legal assistance for indigent

1 victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and  
2 family member assault intervention and treatment fund established in 40-15-110.

3 (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund  
4 account established in 52-7-102 and \$30 must be deposited in the partner and family member assault  
5 intervention and treatment fund established in 40-15-110.

6 (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an  
7 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may  
8 not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under  
9 subsection (1)(a).

10 ~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue~~  
11 ~~account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q).~~

12 ~~(6)~~(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must  
13 be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

14 ~~(7)~~(6) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county  
15 district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund  
16 for district court operations.

17 ~~(8)~~(7) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not  
18 otherwise specifically allocated must be deposited in the state general fund."

19  
20 ~~NEW SECTION. Section 3. Credit for civil legal assistance. (1) A taxpayer is allowed a tax credit~~  
21 ~~against the taxes imposed by 15-30-103 in an amount equal to 45% of the value of professional services~~  
22 ~~donated by the taxpayer that are certified as received by a civil legal assistance program during the tax year.~~  
23 ~~The maximum credit that a taxpayer may claim in a year under this section is \$1,000 \$500. The credit allowed~~  
24 ~~under this section may not exceed the taxpayer's income tax liability. If the taxpayer is allowed other credits~~  
25 ~~against the taxes imposed by 15-30-103, the credit allowed by this section may not be used until all other~~  
26 ~~allowable credits by the taxpayer have been used.~~

27 ~~(2) For purposes of determining the amount of tax credit allowable, the value of professional services~~  
28 ~~may not exceed \$125 an hour.~~

29 ~~(3) For purposes of this section, the following definitions apply:~~

30 ~~(a) "civil legal assistance program" means a statewide organization that has the primary function of~~

1 providing civil legal assistance for indigent persons and that is exempt from taxation under section 501(c)(3) or  
2 501(c)(4) of the Internal Revenue Code.

3 ——— (b) "Professional services" means pro bono legal services provided by an attorney licensed under Title  
4 37, chapter 61, part 2, to indigent persons, including consultation and the provision of legal advice or  
5 representation in a hearing, alternative dispute resolution proceeding, trial, or appeal in a civil matter.

6  
7 ——— ~~NEW SECTION. Section 4. Credit for civil legal assistance.~~ (1) A taxpayer is allowed a tax credit  
8 against the taxes imposed by 15-31-101 in an amount equal to 45% of the value of professional services, as  
9 defined in [section 3], donated by the taxpayer that are certified as received by a civil legal assistance program,  
10 as defined in [section 3], during the tax year. The maximum credit that a taxpayer may claim in a year under this  
11 section is \$1,000 ~~\$500~~. The credit allowed under this section may not exceed the taxpayer's tax liability. If the  
12 taxpayer is allowed other credits against the taxes imposed by 15-31-101, the credit allowed by this section may  
13 not be used until all other allowable credits by the taxpayer have been used.

14 ——— (2) If the credit under this section is claimed by a small business corporation, as defined in 15-30-1101,  
15 or a partnership, the credit must be attributed to shareholders or partners using the same proportion used to  
16 report the corporation's or partnership's income or loss for Montana income tax purposes.

17  
18 ——— ~~NEW SECTION. Section 5. Codification instruction.~~ (1) [Section 3] is intended to be codified as an  
19 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 3].

20 ——— (2) [Section 4] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions  
21 of Title 15, chapter 31, apply to [section 4].

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